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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/894,274

06/27/2001

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10/05/2009

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EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

10/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :6/19/2009; 3/17/2009; 8/21/2008; 10/10/2007; 10/5/2007; 5/11/2007.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/24/2007 have been fully considered but they are not persuasive..

Applicant's representative argues the prior art fails to teach or suggest the function of "transmitting at least one payment transaction associated with input responsive to the communication and the wireless device" as recited in claims 1 and 23 or "circuitry for receiving at a wireless device associated with a first user a communication from a computational entity that sends the communication to at least one other device associated with a second user," as recited in claim 45, and "circuitry for authorizing at least one payment transaction in response to an authorization associated with the communication and an input to the wireless device," as recited in claims 46, 65, and 78.

In response, Joao et al are directed to a system and method for allowing a user to prevent an unauthorized transaction from occurring. See the abstract. In so doing Joao et al state:

"The apparatus 1 will then, at step 39, wait for the cardholder to respond to the transmission. During this time, the cardholder may either utilize the reply or two-way pager feature on the communication device 4 in order to either approve or authorize the transaction or disapprove of or void the transaction. At step 39, the central processing computer 3 will also receive the response if one is sent. At step 40, the apparatus 1 will determine if the cardholder has made a reply or response within the pre-defined time limit which is chosen, in the preferred embodiment, to be one (1) minute. The cardholder may also transmit a signal via an appropriate key or button suspending use of the card such as when he or she may first be apprised of the fact that the card has been lost or stolen. In instances when the communication device 4 does not have a reply or two-way pager feature, the cardholder may simply telephone the central processing office or a processing center for the card in order to personally appraise the center or office of his or her response to the central processing computer transmission regarding the transaction. "

Applicant is directed to column 18, lines 22-67 of Joao et al.

The Prior Office action is repeated below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20, 23-42 and 45-62, 65-76 and 78 are rejected under 35 U.S.C. 102(e) as being anticipated by Joao et al. (US Patent No. 6,539,725).

As per claims 1-20, 23-42, 46-62, 65-76 and 78, in the system of Joao et al, a user presents a card for the payment of a transaction to a sales clerk or operator. The operator swipes the card causing transaction data and card information to be sent to a central computer. The central computer then transmits a communication to a cardholder's wireless device and to the POS terminal. See column 4, lines 35-66, column 6, lines 9-65. Thus, Joao et al teach a system and method comprising:

Receiving at a wireless device associated with a first user (a user's wireless communication device of Joao et al) a communication (transaction and card information data of

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Joao et al) from a computational entity (the central computer of Joao et al) that sends the communication to at least one other device associated with a second user (the POS of Joao et al) and

transmitting at least one payment transaction authorization associated with input responsive to the communication and the wireless device.

Applicant is directed to column 4, lines 35-66 and column 6, lines 9-65 and column 26 of Joao et al.

Both the wireless device and the computational entity accept voice data and alphanumeric user input data. Note column 6, line 48 to column 7, line 48 and column 10, lines 30-67.

The system and method further comprise steps or means for accepting user input that activates a profile containing pre-stored financial data, pre-stored credit, debit card and check handling information data. See column 7, lines 41-67 and column 11, lines 20-55 and column 16. The authorization is effected by user input to a computational entity through a wireless device in response to a presentation of a message through the wireless device. See column 7, lines 8-32 and column 10, lines 31-67. The wireless device includes a visual presentation device and an audio presentation device. Note column 10, lines 31-67. The price is also presented through the wireless device. See column 6, lines 23-47.

As per claim 45, Joao et al disclose all the claimed features. Joao et al disclose a system of tracking a financial transaction and circuitry for authorization at least one payment transaction wherein the authorization is effected by user input to a computational entity through a wireless device as discussed. Applicant is directed to column 4, line 48 to column 10, line 67. The circuitry is selected from an electrical group including electrical

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circuitry having at least one discrete electrical circuit, electrical circuitry having at least one integrated circuit, electrical circuitry having at least one application specific integrated circuit, electrical circuitry forming a general purpose computing device configured by a computer program, electrical circuitry forming a memory device and/or electrical circuitry forming a communications device and circuitry for transmitting at least one payment transaction authorization associated with input responsive to the communication and the wireless device, the circuitry is selected from an electrical-circuitry group including electrical circuitry having at least one discrete electrical circuit, electrical circuitry having at least one integrated circuit, electrical circuitry having at least one application specific integrated circuit, electrical circuitry forming a general purpose computing device configured by a computer program, electrical circuitry forming a memory device, and/or electrical circuitry forming a communications device. See figures 1 and 2 of Joao et al.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-22, 43-44, 63-64 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao et al (US Patent No. 6,529,725).

As per claims 21, 43, 63 and 77, the teachings of Joao et al are discussed above. Joao et al do not explicitly teach the step of presenting the price being in conjunction with at least one message-structure item comprises all the recited items. Joao et al teach the price and transaction information are presented and a reply is expected from the user. The Examiner submits that in the system of Joao et al, a plurality of financial transactions is affected and a message is transmitted to the user wherein the message is a visual, text or audio message. As per the specific types of items being claimed, the Examiner notes that such do not affect the functioning of the system of Joao et al as such are only types of data relevant to a type of financial transactions. Thus, the Examiner submits that no patentable differences exist. Incorporating such types of data in the system of Joao et al would have been obvious to one of ordinary skill in the art at the time of the invention in order to inform a client or user to submit a response related to an approval/denial of a given type of transactions.

As per claims 22, 44 and 64, the teachings of Joao et al are discussed above. Joao et al do not explicitly teach transmitting at least one payment transaction authorization associated with input responsive to the communication and the wireless device comprises accepting input associated with the at least one payment transaction through the wireless device having a browser selected from the group that includes a WML capable browser, a CHTML capable browser, a Pocket IE HTML capable browser, a Palm Query Application capable browser and a voice XML capable browser. Joao et al teach that a plurality types of wireless devices may be used in their system. Note column 10, lines 3-14 and lines 42-67. Types of wireless devices having a browser

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capability are well known in the art at the time of applicant's invention. Joao et al further state communicating transaction data via the Internet. Note column 10, lines 3-14.

Incorporating a wireless device having a browser capability in the system of Joao et al would have been obvious to one of ordinary skill in the art at the time of the invention for instant communication purposes through the Internet so as to communicate transaction data to/from a client.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Frantzy Poinvil/
Primary Examiner
Art Unit 3696**

/FP/
September 23, 2009